

# 78 South

## HOMEOWNERS ASSOCIATION, INC. Rules & Architectural Guidelines

**Approved 07/25/2022**

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## 1.1 Applicability

This guide to Rules and Regulations (“Guide”) is adopted pursuant to the *Articles of Incorporation*, and the *Declaration of Covenants, Conditions, and Restrictions*, (“Declaration”). These documents provide for the establishment of reasonable rules and regulations concerning the use of individual lots and common areas. The Architectural Review Committee (“ARC”) serves as representatives of the Board of Directors (“Board”) while enforcing the Guide. Compliance with this Guide is required but is not the sole basis for review or approval, nor does it guaranty approval of any application. In reviewing each application, the ARC may consider any factors it deems relevant. Decisions may be based purely on aesthetic considerations. Each owner acknowledges that determinations as to such matters are purely subjective in nature and that opinions may vary as to the desirability and attractiveness of a proposed addition or modification.

## 1.2 Purpose

This document is not intended to replace the Declaration, but to clarify the process by which homeowners may customize and modify the exterior presentation of their homes and/or lots. The intent is to provide consistent guidance to owners regarding requirements for additions and modifications to property in the community and matters of particular concern to the ARC when considering applications for approval of such conditions and modifications. Additionally, the Guide sets forth various restrictions on other matters relating to community standards and the overall appearance of property in the community.

## 1.3 Application and Review Process

**Each and every proposed exterior modification/addition to residential units or lots requires prior approval of the Architectural Review Committee** unless specifically noted in this Guideline. Submit the *Request for Architectural Approval* form to the address or email address noted on the request form.

Each application must include:

- a copy of the lot survey showing the size and location of the proposed modification/addition
- a list and description of the materials to be used. Color samples and photographs may assist the ARC in rendering its decision and expedite the review process.

The ARC may require submission of additional information as may be reasonably necessary to consider any application. Review of the application and notification to the applicants shall be conducted as described in the Declaration. The Board and the Committee shall have sixty (30) days to review submitted plans and to approve or disapprove those plans, as provided in the Declarations, although generally, a decision is rendered much earlier. The ARC is not responsible for ensuring structural integrity or compliance with state and local building codes, including obtaining necessary

permits and inspections. Furthermore, the Architectural Review Committee (ARC) approval does not constitute engineering approval. ARC approval is aesthetic in nature. Improvements and consequences are the sole responsibility of the homeowner or person making the improvements. Homeowners must obtain all necessary building permits and other government approval that may be required for the proposed modification or addition.

**It is strongly encouraged that you share and discuss your ARC plan and request with your neighbors on either side of your property and directly behind or adjacent to your property. Their signature on the form only indicates that they are aware and have viewed the planned activities not that they approve, as their approval is not solicited. This notification may prevent any questions or allow the Committee to address an objection surfacing after any installation work has been performed.**

## 2.1 Antennas, Satellite Dishes (DBS, MDS, DSS)

Pursuant to FCC Section 207 of the Telecommunications Act of 1996, the Association will not require prior approval for installation of antennas/dishes in the attic, crawl space, garage, or other interior spaces of the dwelling, or another approved structure so as not to be visible from the exterior of the residence.

Homeowners who wish to place a satellite dish on the exterior of the residence are encouraged to submit a *Request for Architectural Approval* to the ARC for all installations; however, if installation of the satellite dish antenna(s) meets the following requirements, no ARC approval is required.

The following rules must be adhered to for compliance with the Guidelines:

- A maximum of two satellite dishes, measuring one meter (39") or less in diameter each, may be erected on any lot.
- Standard, approved placement of a satellite dish is:
  - Attached to or mounted on a deck or patio in the rear of the residence and extending no higher than the eaves of that portion of the roof of the dwelling directly in front of such antenna; or,
  - Attached to or mounted on the rear wall or rear roof of the residence so as to extend no higher than the ridgeline of the residence at a point directly above the position where attached or mounted to the wall.
- Freestanding antennas/dishes (mounted on a pole anywhere on the lot) are **not** permitted.

If installation is required by your installer anywhere other than the approved locations listed above, an ARC application is required, and a statement from your installer should be included.

**2.2 Birdbaths, Birdfeeders, Birdhouses, Fountains, Statuary and other Yard or Decorative Components: (Please note: The ARC reserves the right to limit the number of artifacts, fountains, bird baths, houses and feeders, and all other yard or decorative components, especially in the front area, and may deny an application for an artifact addition based strictly on aesthetic reasons)**

Birdbaths, birdfeeders, bird houses, statuary and all fountains require a *Request for Architectural Approval* application and ARC approval.

If approved, birdfeeders and birdhouses must not be larger than one foot in width, one foot in depth, and one foot in height. Any pole on which a birdhouse or birdfeeder is located may not exceed two inches in diameter, and six feet in height (including the

house and feeder) or if a base, no more than 3.5" x 3.5" square, and six feet in height (including the house and feeder).

Fountains, birdbaths, birdhouses, and bird feeders shall only be placed in the rear area of the lot, and not in common areas. All statuary (including flowerpots and the like) shall require a *Request for Architectural Approval* application and ARC approval.

Artifacts, statues, and other decorative components shall be limited in height to four feet (4') above the natural grade of the lot. Statues and artifacts will be allowed only if they meet the following criteria:

- (1) Artifact: Shall include the birdbaths, animals, gnomes, cutout objects and planters or pots. They must be made from clay, masonry, metal, or wood. Plastic artifacts are not permitted.
  
- (2) Statue: Shall include human figurines, animals, religious figures, and the like, and must be made from clay, masonry, metal, or wood. Plastic statues are not permitted.

The ARC reserves the right to require screening of artifacts and statues. If plantings are used for screening, adequate screening shall be plantings which initially, i.e., when first installed/planted, screen a minimum 50% of the statue or artifact, and which substantially screens the statue or artifact one (1) year from date of approval.

"Holiday decorations" shall not be construed to be "Decorative Components/Yard Decorations".

### **2.3 Clotheslines**

No clotheslines of any type are allowed to be installed nor will be allowed to remain on any Lot.

### **2.4 Decks, Patios, Porches & Screened Enclosures**

Screened enclosures must not be visible from the street. Decks should not extend past the sides of the house. Decks cannot be painted.

No indoor-outdoor carpeting may be installed on any porch, patio nor deck. Personal property such as bicycles and recreational equipment should be stored inside a Dwelling Unit or Garage.

During the Declarant Control Period, all proposed screened porches, sunrooms, and decks will only be approved if similar in size and constructed materials as those originally

available by the builder. Decking material if wood, may be stained or sealed, and must be maintained. All screened porches, sunrooms and decks require ARC approval with a *Request for Architectural Approval* application. Included in the ARC request should be the type and color of stain or paint, and screen, siding and roofing details, including materials and color.

Patios may be approved in the rear area of the lot only. Acceptable patio materials are stone, brick, stamped concrete, and plain concrete. Due to unique topography in some rear lots, retaining walls may be considered in the rear area only to create even patios. All proposals for patios require ARC approval with a *Request for Architectural Approval* application and the owner is advised that Fuquay-Varina may require permits. Any permits, if required, are the responsibility of the owner.

Fire pits, knee walls, permanent built-in grills, and paver or concrete pads for grills are approvable items and require ARC approval with a *Request for Architectural Approval* application.

Required building permits and placement within the building envelope is mandatory. Any utility easements must not be entered or obstructed.

## **2.5 Edging Material**

Landscape bed edging material installation requires a *Request for Architectural Approval* application and ARC approval. Details, including photos, must be provided with the application. Edging must be made of the following materials:

- Fibertech 5/16 x 3 7/16" composite bender board (or equivalent)
- Coated steel coated edging, earth tone in color
- Stone pavers/concrete pavers/solid bricks provided that they are installed at ground level and are earth tone in color.

## **2.6 Exterior Colors, Shutters, Doors, Other Exterior Modifications**

Re-painting or re-siding using an existing color and materials, re-roofing using existing color and materials, minor repairs, and the like shall not require the approval of the Committee. A *Request for Architectural Approval* application and ARC approval is required for any proposed changes to existing exterior or roof color or siding materials or color, and any changes in style or color of the shutters (if installed by the builder) or doors, or any additions of shutters or other exterior additions, or modification from builder installation.

## 2.7 Exterior Lighting, Seasonal Decorations

All permanent exterior landscape lighting or décor requires a *Request for Architectural Approval* application and ARC approval prior to installation.

- Low voltage light fixtures may be used for low-level path lighting, up-lighting, down lighting and landscape architectural accent lighting.
- Lights along a path or outlining a natural area should be in the mulched area and at between four (4) and six (6) feet apart and should not exceed eight (8) in number in the front.
- Low voltage/solar lights should not be installed along driveways unless there is a special need.
- Tree-mounted down lights shall be shielded from both street and neighbors view such that the light source is not readily visible from the street.
- Low voltage fixtures shall be located and aimed carefully. Fixtures shall not constitute a nuisance or hazard to any Homeowner or neighboring resident. A lighting layout plan for low voltage fixtures shall be submitted to the ARC for review and approval.
- Junction boxes shall be placed below grade or screened to minimize daytime visibility of hardware.
- No colored or multi-colored lights or changing color lights are permitted except at holiday times. Low voltage light fixtures may not exceed 18" in height. Light fixtures shall conform to the architectural character of the home and will be subject to approval by the ARC.
- Seasonal holiday decorative lights are pre-approved from Thanksgiving through the 15<sup>th</sup> of January. Seasonal decorations are approved without application two weeks prior to the event until two weeks after the event.

## 2.8 Fences

No fence, other than the type listed below, shall be constructed, or erected on any Lot. Approval must be sought through a *Request for Architectural Approval* application and ARC approval must be granted prior to installation. Owner is responsible for any Fuquay-Varina permits required for fence installation.



Fence material shall either be pressure treated wood, black aluminum, wrought iron or vinyl. Wooden fences may be treated with a natural wood or white tone stain. For maintenance purposes, it is preferred that fences are not painted.

- Fences must enclose all or part of the backyard and can start 1/3 of the length of the house from the front of the house (variations will be considered for specific lot shapes and/or items you are intending to screen with the fence).
- No wire, plastic, or chain-link fences (including dog enclosures) shall be considered.
- Construction will consist of vertical members (pickets) supported on horizontal members (rails) with the pickets on the outward side of the fence. The top edge of wooden or vinyl fences may be scalloped either up or down with ARC approval as seen in pictures, below. Fence must follow the natural grade of land.
- Required fence height is a minimum of 4ft (42" at lowest point) and maximum of 6ft (at the highest point).
- Fences must be maintained and kept in good repair.
- Fences shall be a minimum 2" from the ground level in order to allow for proper drainage and run off from home site to home site. Posts may not be placed in swales.

**Approved styles for lots include:**

- 1. Black aluminum fencing, Ascot style, 4-5 feet in height, flat top, with at least one gate. (See graphic below) The addition of a 'puppy panel' at the base is also approved.**



2. Solid wood Privacy Fence treated pine #2 grade, with 2x4 exterior brace, 6 feet in height, with decorative copper caps. Fence is required to be either stained with an approved wooden stain (no red wooded stain is allowed) or clear sealant. The application must specify the choice.



3. Vinyl privacy, white or sand in color, 6 (six) feet in height, with or without decorative caps.



#### Special Notes on Fencing:

Acknowledgment of the fence application is required of neighboring and affected owners. Owners are allowed to 'tie-in' their fence with existing neighbor's fence with permission and acknowledgement by the affected owner, and signatures should be reflected in the application. Any agreement between neighbors to share a fence is considered a private agreement to which the HOA and its Board will have no responsibility. Tie-in of owner's fence to common area fencing or walls *may* be allowed

at the Board's discretion, depending on the circumstance. All fences must be placed within the Owner's property.

**Construction details of each fence will be provided with the application approval and will be used to ascertain compliance with this Guideline.**

## **2.9 Flagpoles, Flags**

Freestanding flagpoles require ARC approval. If approved, an owner may have one flagpole, not to exceed two inches in diameter and sixty inches (30") in length.

All flags, other than United States of America flags require ARC approval. Any flag which, in the Board's judgment, tend to incite or antagonize are not permitted.

United States of America flags meeting the following criteria are pre-approved.

- Mounted on the front of a dwelling with a flag mount.
- No larger in size than 4 (four) feet x 6 (six) feet.

Flags must be maintained in good condition and shall not be displayed if mildewed, tattered, or faded.

## **2.10 Garage Sales, Garage Sale Signs, Items for Sale**

Garage sales be limited to a maximum of two (2) times per year per residence. Each garage sale may last a maximum of 48 hours. Sale items must be kept in the immediate area of the garage area.

Advertising signs may be placed at the residence 48 hours in advance of the sale and must be removed immediately after the conclusion of the sale. Signs placed other than at the residence must follow the guidelines in paragraph 2.16.

Other than garage sales, items for sale such as cars, boats, lawnmowers, etc. may not be displayed at the residence or on any common areas.

## **2.11 Garbage Containers, Recycle Containers, Garbage**

Garbage and recycle Containers may be placed at the curb no earlier than dusk the day prior to collection and must be retrieved and stored back inside the garage or rear yard before dusk on the day of collection.

Garbage containers are pre-approved to be stored in the following locations:

- Inside the garage, except on garbage collection days.
- In the rear of the dwelling, fully out of sight from the road and

neighboring properties.

If storage in the side yard is desired, a *Request for Architectural Approval* application and ARC approval is required. The application must contain a plan to screen the garbage and/or recycling containers from the street and neighboring lots. This may be done with a fence and/or plant material.



## 2.12 Gardens

Planting of annuals, vegetables, and other garden plantings are permitted in the rear of the lot, not noticeable from the street, and require a *Request for Architectural Approval* application and ARC approval prior to installation. In general, garden areas may not exceed four (4) 4' x 4' sections, unless approved by the ARC. The ARC reserves the right to limit final size of gardens, and the use of edging materials.

Gardens must appear neat and clean during the growing season. The vegetation is no to exceed allowed fence heights or grow through to a neighbor's yard. Debris must be removed periodically, and all dead plant material must be removed once the growing season has ended.

Gardens cannot be placed in any way that would affect yard drainage, and no gardens will be allowed in swales.

Rabbit/Deer deterrent fencing is not permitted.

## 2.13 Grading, Drainage and Dirt

The grading and drainage swales in place at the time of closing are in place to support warranties existing at the time of closing and to prevent any run-off or drainage issues from your property on to any neighboring lots. Any landscaping or grading changes to

an existing lot after closing must be pre-approved through submission of a *Request for Architectural Approval application* and ARC approval.

Any homeowner or resident who changes the existing grade or drainages shall be liable for all costs and expenses of repairing such changes, and any costs, liabilities, damages or causes of action arising out of such changes. ARC approval does not constitute approval for a homeowner to change any existing grading or drainages.

All dirt excavated or added, in construction of your approved exterior modification plan, shall have a specific plan for temporary storage in the rear area of each Lot. At no time, shall dirt be stored nor disposed of on any common area. All soil and/or turf removed to accommodate any approved exterior modification must be removed off site and not placed in any lot, developed or not, nor in any common area.

Prior to any digging or excavation in any Lot, it is recommended that “No Cuts” be contacted at 1- 800-632-4949.

**Important Note:** Architectural Review Committee (ARC) approval on landscaping and grading does not constitute engineering approval. ARC approval is aesthetic in nature. Improvements and consequences are the sole responsibility of the homeowner or person making the improvements.

## **2.14 Home-Based Businesses**

Home-based businesses are permitted provided the following criteria are met:

It is not evident that home-based business is being conducted. No unusual traffic, other than normal residential traffic, is permitted. The Board may have sole discretion as to whether amount of traffic generated is unusual. Only removable signs are permitted on vehicles and said vehicles must be parked in the garage or the signs may be required to be removed while in the community. No items or equipment related to the business may be stored or otherwise kept on owner’s lot outside of the dwelling or garage. Business activities must comply with all applicable federal, state, and local laws.

## **2.15 Hot Tubs, Spas, Saunas, Pools**

Spas, saunas, and above ground pools are not permitted. Kiddie pools, defined as hard plastic pools, meant for this purpose are allowed provided that they must be placed in the back yard, out of view from the street, are to be used only during the season (months of May through September). When not in immediate use for this purpose, they must be stored inside the home or garage.

In-ground pool and hot tubs are allowed and require a *Request for Architectural Approval* application and ARC approval prior to installation. All hot tubs must be screened from neighbor view by privacy fencing and/or evergreen vegetation, both of which must be 6 (six) feet tall at installation. All in-ground pools must be fenced in.

### **2.16 Outdoor Furniture**

No furniture shall be used, stored, or kept on the exterior of any residence except on porches, patios, and decks. Furniture not enclosed in a room shall be limited to such types as is designed for outdoor use. Any furniture on the deck, patio or porch shall be appropriate outdoor furniture and shall be maintained in a neat, tidy and good condition.

### **2.17 Parking, Recreational Vehicles, Campers, Boats, Trailers**

No vehicle, including recreational, camper, boat, trailer, car or truck, shall be parked on the grass or sidewalk of any lot. Recreational vehicles, campers, boats and trailers must be kept in the garage out of view except temporarily in preparation for use if such period does not exceed 24 hours.

### **2.18 Pets**

Owners are responsible for maintaining control of pets at all times. Pets must be on a leash or restrained in the rear yard by use of invisible fencing or an approved fence. No owner may keep any more than three (3) pets on any portion of the property without prior written consent of the Board of Directors.

Animal nuisance of any kind will not be tolerated, including noise and improper waste disposal. While outside the confines of the owner's property, animal waste will immediately be collected by the owner and disposed of in an approved waste receptacle. Violators will be subject to penalties, including fines. Owners must keep their property free from animal waste.

Other than normal household pets, no other animals, livestock, or poultry of any kind shall be raised, bred, or kept on the properties. Dogs, cats, or other normal household pets may be kept in homes provided that such pets are not kept, bred, or maintained for any commercial purpose. It is suggested that homeowners familiarize themselves with any applicable municipal ordinances relating to pets.

### **2.19 Signs**

The placement of any signs on any portion of 78 South property requires the submittal of an ARC Application. Owners are, however, allowed the following signs, without a *Request for Architectural Approval* application and ARC approval prior to installation, provided they meet the criteria:

A single "For Sale" or "For Rent" sign which shall be limited to six (6) square feet

and must be displayed from the inside window of the dwelling.

A garage sale sign as described in paragraph 2.10. One security, alarm, or dog fence sign, located in the front of the home, no larger in dimensions than one foot by one foot in size (1'x1')

All signs must comply with any applicable federal, state, and local laws and ordinances.

The Declarant, during the Declarant's development period, and the Association's Board reserve the right to deny the request for placement of any Sign on any Lot or Common Area per the 78 South Homeowners Association.

## **2.20 Solar Panels**

Solar Energy Devices - The Association and Board of Directors agrees that it is important to ensure Solar Equipment and Devices are reasonably controlled. The Architectural Committee will enforce this policy to dictate type, look and location of Solar panel installation to ensure a well-kept look and appealing aesthetic for the 78 South community.

### **POLICY:**

These rules, regulations, and guidelines apply to ALL solar energy devices.

#### **Approval of Installation**

- Detailed plans for installation and placement of any solar energy devices must be submitted to the Architectural Committee for review and receive written approval from the Committee/Board of Directors prior to installation.
- A proposal with photos, illustrations, charts, drawings, etc. which depict materials to be used, location, number of devices and panels and location of interior/exterior system components shall be submitted with the Architectural Request.
- The Association strongly suggests to owner that he/she use an installer which is a licensed solar equipment contractor with the appropriate contractor's license. Owner is entirely and solely responsible for knowing what if any permits may be required and obtaining any such permits before installation begins.
- Homeowners are urged to check with their home builder and/or insurance company prior to installation of devices for how such installation may impact their roof warranty, impact structure of roof and home, etc. Neither the Architectural Committee nor the HOA/Board of Directors is liable for roof damage or for effects to roof warranties. The Association, its Board of Directors and the Architectural Committee has NO expertise or special knowledge regarding such systems. Therefore, the Association's approval for installation of any such Solar device(s) or system is not a representation that the system chosen by an Owner is safe to use or is it

compatible with the Owner's roof. Owner assumes and bears all risks regarding installation and use of such a system.

#### Types/Location and Placement

- Only professionally made and installed devices are allowed.
- Roof-mounted solar panels are permitted but Owner MUST have written approval of Architectural Committee prior to installation.
- Ground mounted solar panels are NOT permitted.

#### ROOF MOUNTED SOLAR PANELS

- The solar panels should be an integrated part of the roof and mounted directly to the roof deck.
- Solar panels should be positioned as low as possible on the roof extending wider rather than higher on the roof plane. The solar panels, piping/ duct work, or any exposed part of the installation may NOT be higher than the roof peak.
- Visibility of ALL necessary components must be minimized from public view and are required to be screened from any neighboring property in a manner approved by the Architectural Committee. The Architectural Committee requires all supporting equipment (i.e., inverter, display panel, AC disconnect, etc.) be placed in the garage.
- All roof mounted equipment (excluding the face of the solar panels) must match the color of the roof material. Exposed surfaces such as frames or supports for panels but excluding the exposed collector panel face itself MUST be painted to match OR the color of the materials used must match the surface on which it is mounted.
- Frame of solar panels must be black or the color of the roof. No metallic colors will be permitted. In addition:
- All mounting rails must NOT extend beyond the footprint of the panels.
- Any mounting hardware visible must be painted to match the color of the roof.
- Cables connecting the panels must be routed through the attic of the home.

#### Maintenance

- Homeowners will ensure that all surfaces of any such Solar devices and/or equipment, whether painted or colored materials, are maintained properly and in a timely manner. This will be done to prevent peeling and cracking of paint or loss of coloration or other deterioration to the point where the equipment becomes unsightly and/or incompatible with the aesthetic standards of the community.



## **2.21 Storm Doors**

Storm doors are permitted but must be approved by the ARC prior to installation and require submission of the standard *Request for Architectural Approval* application. Approved storm doors must be either full-view glass with no etchings or ornamentation or glass/screen which contains a retractable screen and must match the door or trim in color. Door hardware must also match the existing hardware in color, style, and materials.

## **2.22 Window Air Conditioners, Fans**

Window air conditioning units and window fans are not permitted.

## **2.23 Yard Maintenance and Proposed Landscape Changes**

Homeowners shall be required to water the grass and plantings on their lots as needed to maintain a healthy lawn and plants, as well as to be responsible for replacing any dead plantings with material similar in nature to the original landscaping. The same color scheme of mulch and/or pine straw utilized throughout the community and in neighboring lots shall be maintained. All landscaping improvements made by the homeowner will be the responsibility of the homeowner to maintain and not that of the Association.

The replacement of dead shrubs and trees, are pre-approved and do not require a *Request for Architectural Approval* application and ARC approval prior to installation if the dead or diseased shrub or tree is being replaced by an identical one in type and size (i.e., replacing a 2.5" caliper maple for a 2.5" caliper maple; replacing a one-gallon azalea with a one-gallon azalea).

All landscaping changes and additions which are not 'like to like', installation of mulch; erecting edging devices and other changes of a similar nature shall require the submission of a *Request for Architectural Approval* application and ARC approval prior to installation.

## **2.24 Trampolines, play equipment, basketball goals**

Trampolines are not allowed on any lot unless the lot is fenced with a wood privacy fence. Additional screening may be required. Trampolines require a *Request for Architectural Approval* application and ARC approval. If approved, they must be placed in the rear yard and must be out of view or screened from view of the street.

Play structures are allowed but require a *Request for Architectural Approval* application and ARC approval. If approved, they must be placed in the rear yard and must be out of view or screened from view of the street. The structure must be at least 15 feet from the rear of the lot and 10 feet or more from either sideline.

No permanent basketball goals are allowed. Moveable basketball goals are allowed as long as they are stored on the homeowner's property, in a place or location that is minimally viewed from the street. The goals may not remain in the street or on the sidewalk.

## **2.25 Sheds**

- No larger in size than 10 x 12.
- Constructed of wood; no aluminum sheds allowed.
- A suitably constructed floor system or foundation is required.
- They are placed on the property behind your home so the shed cannot be seen from the road when standing directly in front of house.
- They must be at least 3 feet from the neighboring property.
- Siding material must be similar in color and composition to the home.
- Roof must have similar pitch, similar materials, and similar color as that of the home.

**THIS DOCUMENT MAY BE AMENDED FROM TIME TO TIME BY A  
MAJORITY VOTE OF 78 SOUTH HOA BOARD OF DIRECTORS**